

The opinion in support of the decision being entered today was ~~not~~ written for publication and is ~~not~~ binding precedent of the Board

Paper No. 34

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte NICHOLAS H. EDWARDS,
MARTIN RUSS and PAUL GARNER

Appeal No. 2004-1201
Application 09/051,118

ON BRIEF¹

Before THOMAS, FLEMING, and LEVY, ~~Administrative Patent Judges.~~

THOMAS, ~~Administrative Patent Judge.~~

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 25, 26, 36-48, 50-53, 55, 57, 59 and 62-91.

¹ Appellants' representative was informed by telephone by a Board Administrator on Monday, January 24, 2005 that it was not necessary to attend the Oral hearing of this appeal set for Tuesday, January 25, 2005 because the above panel decided to reverse all outstanding rejections.

Appeal No. 2004-1201
Application No. 09/051,118

Representative claim 75 is reproduced below:

75. A computer terminal for accessing a location in a network by activating a link in a file, which link contains a location address or an identifier for a location address, the terminal comprising:

- i) a retriever for retrieving one or more files;
- ii) a searcher for searching a file so retrieved to locate links embedded therein;
- iii) an assignor for assigning, to each of a plurality of links so located, a respective different identifier;
- iv) display for displaying said identifiers;
- v) a keypad for use by the user to input an identifier from among the displayed identifiers; and
- vi) activator responsive to input of an assigned identifier to activate the associated link.

The following references are relied on by the examiner:

Redford	5,459,489	Oct. 17, 1995
DeRose	5,644,776	July 1, 1997
Cline et al. (Cline)	5,721,851	Feb. 24, 1998
Stein et al. (Stein)	5,748,927	May 5, 1998 (filing date May 10, 1996)
Dolan et al. (Dolan)	5,801,702	Sept. 1, 1998 (filing date Mar. 9, 1995)

Appeal No. 2004-1201
Application No. 09/051,118

Kogan et al. (Kogan)	5,809,317	Sep. 15, 1998 (filing date June 5, 1997)
----------------------	-----------	---

Krasle	6,029,135	Feb. 22, 2000 (filing date Nov. 14, 1995)
--------	-----------	--

Ersnt, "Using Netscape," Que Corp., Chapter 2, pp. 31-32 (1995)

Brown, "Special Edition Using Netscape 2," Que Corp., pp. 402, 403, 406, 407, 836-839 (1995)

All claims on appeal stand rejected under 35 U.S.C. § 103 on the basis of nine separately stated rejections. Claims 75-83 and 91 stand rejected over the collective teachings and showings of Dolan in view of Kogan. The examiner adds Cline to this combination of references to reject claims 25, 26, and 90. To this last combination of references, the examiner further adds Ernst as to claim 74. Claims 36, 37, 39-43, 45-48, 50-53, 59, 62-68, 70-72, 84 and 86-89 are considered obvious by the examiner in light of the collective teachings and showings of Dolan in view of Ernst, further in view of Kogan. To this latter combination of references, the examiner adds Brown as to claim 38, adds DeRose as to claims 44 and 85, adds Redford as to claims 55 and 69, adds Stein as to

Appeal No. 2004-1201
Application No. 09/051,118

claim 57 and adds Krasle as to claim 73.

Rather than repeat the positions of the appellants and the examiner, reference is made to the brief and reply brief for the appellants' positions, and to the answer for the examiner's positions.

OPINION

For the reasons set forth in the principal brief on appeal, we reverse the nine separately stated rejections of all claims on appeal under 35 U.S.C. § 103. The top of page 8 of the principal brief on appeal initially states the following:

The combination fails to teach or suggest retrieving and searching a file for links and then assigning a respective different identifier to each of a plurality of links located from the search of the file for presentation to a user, and a command-based interface for use by the user to input an assigned identifier.

From our study of the principal brief on appeal, the same nutshell-type remarks are presented at the middle of page 12 and at the bottom of page 13 for each respective independent claim 25, 36, 75, 84, 86 and 90 on appeal.

Appeal No. 2004-1201
Application No. 09/051,118

We take as a representative claim, claim 75, because the rejection of this independent claim relies only upon Dolan in view of Kogan and this claim also represents most simply the two basic deficiencies in this combination. Even if we assume for the sake of argument that these two references are properly combined with 35 U.S.C. § 103, the deficiencies in this combination of references are fatal to the rejection of each independent claim on appeal. This is true initially because each respective claim on appeal in some manner recites the assignment to each or all of a plurality of links a respective different identifier and, secondly, displaying in some manner these identifiers. For example, in claim 25 the display function is recited in terms of the respective identifiers being “presented to the user for selection thereof.” In claim 36 there is recited a “means for assigning, ..., a respective different identifier for presentation to a user” with a separate recitation that these respective identifiers are “presented to the user” so that the user by means of an input means may input one of the respective identifiers.

The examiner’s position as to the combination of Dolan and Kogan

Appeal No. 2004-1201
Application No. 09/051,118

across all stated rejections of the claims on appeal admits that Dolan does not specifically teach two key features recited in each claim on appeal, that of assigning a different identifier to a link and selecting an identifier from among different presented identifiers assigned to the link presented for selection. We agree with appellants' views expressed initially at pages 9 and 10 of the principal brief on appeal that Kogan actually fails to teach or suggest that which is asserted by the examiner to make up for the deficiencies of Dolan.

Because we essentially agree with appellants' views at pages 9 and 10 of the principal brief on appeal, we reproduce them here:

Kogan discloses selecting an "anchor" using user command. Kogan states that the exact nature of the command is not relevant and will most frequently be a pointing device such as a ~~mouse~~. (See footnote 2 in col. 8 of Kogan). Appellant submits that Kogan thus fails to remedy Dolan's deficiency of failing to teach a "command-based interface" for inputting identifiers. One of ordinary skill in the art would not have been even motivated to look at Kogan for a teaching as to what might useful in

Appeal No. 2004-1201
Application No. 09/051,118

accessing hyperlinks using a command based interface in light of Kogan's explicit disclosure of "most frequently" using a mouse (i.e., a non-command based interface) for selecting an anchor.

Moreover, Kogan fails to remedy Dolan's deficiency of failing to teach or suggest assigning respective different identifiers (i.e., assigning unique identifiers to located links) for display to a user. While Kogan discloses a system which generates and assigns anchor identifiers 591a-595a to anchors, anchor identifiers 591a-595a are not presented to the user. Similarly, link IDs 610 (i.e., 1 or 2) in hyperlink table 600 (Fig. 6) are not presented to the user. Anchor identifiers 591a-595a and link IDs 610 merely enable the system to internally link between various tables of the system. None of them are presented to the user (See, e.g., col. 7, lines 21-42). While the link names ("South Co. Route" or "Relative Of") disclosed in hyperlink table 600 may be presented to the user, these link names are not uniquely assigned to each of a plurality of links. For example, Kogan explicitly teaches "As shown in the example above (FIG. 3), these anchors participate in the hyperlink 311 labeled "South Col Route". (See col. 7, lines 59-61). The same link name "South Col Route" is therefore shared among three different anchors and therefore does not form different respective identifiers uniquely assigned to each of a plurality of links for presentation to a user. Accordingly, selection in Kogan's system is therefore necessarily executed using a pointing device, not a command-based interface. It is also clear that the link name is not assigned by the system, but assigned by a human editor. For example, col. 9, lines 36-38 of Kogan states "... the system prompts the user for all necessary information, e.g., hyperlink name at steps 1003 and 1004."

On the other hand, the examiner's brief remarks are contained in only a single paragraph at the bottom of page 25 of the answer responding to these assertions by the appellants. Essentially, the examiner

Appeal No. 2004-1201
Application No. 09/051,118

relies upon the same assertions made with respect to the statement of the rejection of the claims on appeal. Since our study of columns 7 and 8 of Kogan are consistent with the remarks we quoted earlier in this opinion from appellants' principal brief on appeal as to the teachings pertinent through Figures 5-7 of Kogan, we must reverse the rejection of each independent claim on appeal.

As noted by appellants in the principal brief on appeal, from our review of Kogan, we must conclude that this reference does not teach that a link identifier is presented to the user according to the earlier noted requirements of each independent claim on appeal, since any such link identifier may be properly construed within Kogan as being an internal identification system and not one presented to the user of the system while, at the same time, there is no essential unique assignment of respectively different identifiers in Kogan to each of a plurality of links, an additional requirement of each independent claim on appeal. The same link name or identifier is shared among a plurality of anchors within the context of the system of representations of links in Kogan.

Since at least two essential requirements of each independent claim

Appeal No. 2004-1201
Application No. 09/051,118

on appeal are not met by the combination of Dolan and Kogan as asserted by the examiner, and in view of the fact that the examiner does not assert that any other reference relied upon to reject the claims on appeal teaches or suggests these two respective key features of each independent claim on appeal, the rejection of each independent claim and their respective dependent claims must be reversed. In other words, the other references relied upon by the examiner do not make up for the deficiencies noted with respect to the combination of Dolan and Kogan.

Appeal No. 2004-1201
Application No. 09/051,118

In view of the foregoing, the decision of the examiner rejecting all claims on appeal under 35 U.S.C. § 103 is reversed.

REVERSED

James D. Thomas)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
Michael R. Fleming)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
)	
)	
Stuart S. Levy)	
Administrative Patent Judge)	

JDT/cam

Appeal No. 2004-1201
Application No. 09/051,118

NIXON AND VANDERHYE
1100 North Glebe Road
8th Floor
Arlington, VA 22201-4714